

Message Text

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ACTION FRB-03

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SUBJ: MUELLER VISIT

REF: BERN 902

1. SUMMARY: PURPOSE THIS MESSAGE IS TO PROVIDE BIO INFO ON BERNHARD MUELLER AND BACKGROUND ON HIS OBJECTIVES AND THE FRAMEWORK WITHIN WHICH HE MUST OPERATE IN ORDER TO ACHIEVE THEM. WE ARE SUBMITTING IT AS A PART OF OUR PREPARATIONS FOR COMPTROLLER GENERAL HEIMANN'S VISIT MAR 20-21 AND THE VISIT OF SWISS BANK REGULATORY OFFICIALS TO THE US IN MAY. WE BELIEVE WE CAN EXPECT SIGNIFICANT, IF SLOW, PROGRESS TOWARDS GREATER COOPERATION WITH THE SWISS IN AREAS OF INTEREST TO US AS A RESULT OF THESE AND OTHER EXCHANGES WE HAVE HAD OR WILL BE HAVING WITH THEM. END SUMMARY.

2. BERNHARD MUELLER IS ABOUT 60 YEARS OLD, MARRIED AND HAS ONE SON, AGE ABOUT 23. HE IS A NATIVE BERNESE AND HAS LIVED IN BERN ALL HIS LIFE. A LONG-TIME CIVIL SERVANT, FOR MORE THAN 20 YEARS, PRIOR TO HIS APPOINTMENT BY THE SWISS FEDERAL COUNCIL TO HIS PRESENT POSITION, HE WAS THE CHIEF LEGAL OFFICER AT THE SWISS DEPT OF FINANCE. APART FROM HIS CONTACTS WITH THE EMBASSY, HE REGULARLY ATTENDS MEETINGS AT THE BANK FOR INTL SETTLEMENTS IN BASEL WITH HIS COUNTERPARTS FROM OTHER COUNTRIES INCLUDING THE US.
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HIS ENGLISH IS FAIR; HOWEVER, HE HAS BEEN WORKING TO IMPROVE IT, AND IT IS NOW ADEQUATE FOR DISCUSSION OF MOST TOPICS. IN ORDER TO BE CERTAIN THERE ARE NO MISUNDERSTANDINGS IT IS BEST TO USE FRENCH OR GERMAN, BUT IF ENGLISH IS THE LANGUAGE OF DISCUSSION, WE WILL ASK FOR AN EXPLANATION IN GERMAN WHEN HE HAS NOT FULLY UNDERSTOOD WHAT WAS SAID.

3. WE ARE TOLD THAT HE HAS A LARGE COLLECTION OF VIOLINS AND PLAYS WELL HIMSELF. HE ALSO HAS A GREAT INTEREST IN PAINTING. HE HAS TRAVELED WIDELY IN EUROPE, BUT HAS NEVER VISITED THE US.

4. MULLER IS ONE OF OUR CLOSEST CONTACTS. WE HAVE WORKED WITH HIM ON A NUMBER OF SENSITIVE ISSUES AND HAVE ALWAYS FOUND HIM RESPONSIVE, WITHIN THE LIMITS IMPOSED UPON HIM BY SWISS CUSTOM, LAW AND CONSTITUTIONAL STRUCTURE. HIS PATIENCE AND COURTESY ARE PROBABLY HIS OUTSTANDING PERSONAL CHARACTERISTICS.

5. MUELLER IS WELL AWARE OF THE NEED FOR A HIGHER LEVEL OF INTL COOPERATION AMONG BANK AND OTHER REGULATORY AUTHORITIES IN ORDER TO COMBAT CRIMINAL ACTIVITY AND DETECT POTENTIAL PROBLEMS WITHIN BANKING SYSTEMS EARLY ENOUGH SO THEY DO NOT DEVELOP INTO BANK FAILURES. RECENT EVENTS IN SWITZERLAND, SUCH AS THE CHIASSO SCANDAL, IN WHICH A BRANCH OF ONE OF THE LARGEST SWISS BANKS WAS INVOLVED, HAVE BEEN HELPFUL TO HIM IN HIS EFFORTS TO MOVE IN THE DIRECTION OF GREATER COOPERATION. HOWEVER, RESISTANCE AMONG THE SWISS BANKS TO GREATER CENTRAL CONTROL OVER THEIR ACTIVITIES IS STRONG AND OFTEN EFFECTIVE. SWISS LAWS ON BANKING AND COMMERCIAL SECRECY SEVERELY LIMIT THE EXTENT TO WHICH THE COMMISSION CAN COOPERATE WITH OTHER AUTHORITIES.

6. MUELLER'S GENERAL APPROACH TO THESE PROBLEMS IS PRAGMATIC. ORDINARILY, IF A SYSTEM OF COOPERATION CAN BE WORKED OUT WHICH PERMITS THE SWISS TO DO WHATEVER MUST BE DONE ON SWISS SOIL, LIMITED OFFICIAL USE

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MUELLER WILL TRY TO PERSUADE THE COMMISSION AND OTHER SWISS GOVT DEPARTMENTS CONCERNED TO GO ALONG. HIS SUCCESSES OUTNUMBER HIS FAILURES.

7. NONETHELESS, AS NOTED, THERE ARE POWERFUL CONSTRAINTS ON MUELLER'S AND THE COMMISSION'S FREEDOM OF ACTION. HOWEVER RECEPTIVE THEY MAY BE TO THE IDEA OF IMPROVED COOPERATION, CAREFUL HANDLING OF OUR PRESENTATIONS AND PROPOSALS FOR ACTION IS NECESSARY. SWISS SENSITIVITIES MUST BE TAKEN INTO ACCOUNT IN ORDER TO BE SUCCESSFUL. THE BANKING COMMISSION COULD NOT AGREE TO ACTIONS WHICH APPEAR TO INVOLVE AN INFRINGEMENT OF SWISS SOVEREIGNTY OR LAW.

8. ANY MAJOR ACTION MUELLER PROPOSES MUST BE APPROVED BY HIS COMMISSION. THIS BODY MEETS MONTHLY (THE NEXT MEETING IS ON MAR 21) AND IS COMPRISED OF 8 LAWYERS, BUSINESSMEN, ACADEMICS AND A DIR OF THE SWISS NATL BANK. THEIR CHAIRMAN, DR BODENMANN, DESCRIBES THEM AS VERY INDEPENDENT; HE HIMSELF IS VERY CAUTIOUS.

9. THE COMMISSION'S LEGISLATIVE MANDATE IS RESTRICTIVE. AN ACCURATE DESCRIPTION OF THAT MANDATE CAN BE FOUND IN THE PUBLICATION "SWISS FEDERAL BANKING LAW", AS TRANSLATED AND

PUBLISHED BY THE UNION BANJ OF SWITZERLAND, NOV 1972.

10. THE COMMISSION COORDINATES CAREFULLY WITH THE POLITICAL DEPT, THE DEPT OF FINANCE, THE SWISS NATL BANK AND THE DEPT OF JUSTICE AND POLICE IN MAKING DECISIONS ON ISSUES INVOLVING THE APPLICATION OF LAWS TO QUESTIONS ON INTL COOPERATION.T

1. BELOW MUELLER IS A SMALL STAFF, AS OVERWORKED AND OVERLOADED AS HE IS, TO SUCH AN EXTENT THAT, ON OCCASION, IT IS ALL THE STAFF CAN DO TO COVER THE MOST PRESSING QUESTIONS AND PROBLEMS OF INDIVIDUAL BANKS.

12. MUELLER HAS BEEN STEERING A CAREFUL AND SKILLFUL COURSE THROUGH TNE MAZE IN WHICH HE MUST OPERATE. HE HAS ACCOMPLISHED LIMITED OFFICIAL USE

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A LOT, BUT CHANGE IN SWITZERLAND NEVER HAPPENS QUICKLY. AS A PARTIAL MEASURE OF THE DISTANCE HE HAS BEEN ABLE TO MOVE, WE SERIOUSLY DOUBT THAT, UNDER HIS PREDECESSOR, THE COMMISSION COULD HAVE BEEN INDUCED TO ACCEPT THE INVITATION FROM THE COMPTROLLER AND FRB TO VISIT THE US. HAD WE RAISED THE QUESTION OF EXAMINATION OF AMERICAN BANK BRANCHES TWO YEARS AGO, THE COMMISSION WOULD LIKELY HAVE REFUSED TO CONSIDER IT.

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13. WE BELIEVE GOV WALLICH'S VISIT, THE PROSPECTIVE VISIT OF THE COMPTROLLER AND OF THE COMMISSION TO THE US HAVE CONTRIBUTED AND WILL CONTRIBUTE A GOOD DEAL TOWARDS ACHIEVING USG OBJECTIVES IN THIS AREA. THE TIMING IS GOOD, A CLIMATE OF MUTUAL TRUST HAS BEEN ESTABLISHED, AND WE SHOULD NOW BE ABLE TO MAKE FURTHER PROGRESS, HOWEVER SLOWLY.
ODELL

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